

COMMISSIONERS APPROVAL

ROKOSCH *JHR*

GRANDSTAFF *-absent*

THOMPSON *at*

CHILCOTT *ag*

DRISCOLL *vd*

PLETTENBERG (Clerk & Recorder)

Date.....December 19, 2007

Members Present..... Commissioner Jim Rokosch,  
Commissioner Alan Thompson, Commissioner Greg Chilcott and Commissioner  
Kathleen Driscoll

Minutes: Beth Perkins

The Board met for a public hearing regarding material modification for Harmony Hills  
Subdivision, Lot 5A. Present were Owner Thomas Evans, Planners Tristan Riddell and  
Randy Fifrick.

Commissioner Rokosch opened the hearing. He requested the Planning Staff Report be  
read. Randy presented the report as follows:

## REQUEST FOR COMMISSION ACTION

OG-07-12-1214

Meeting: December 19, 2007 @ 9:00 a.m.

Request: To conditionally approve the Harmony Hills, Lot 5A, Material  
Modification (Evans)

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### I. ACTION REQUESTED

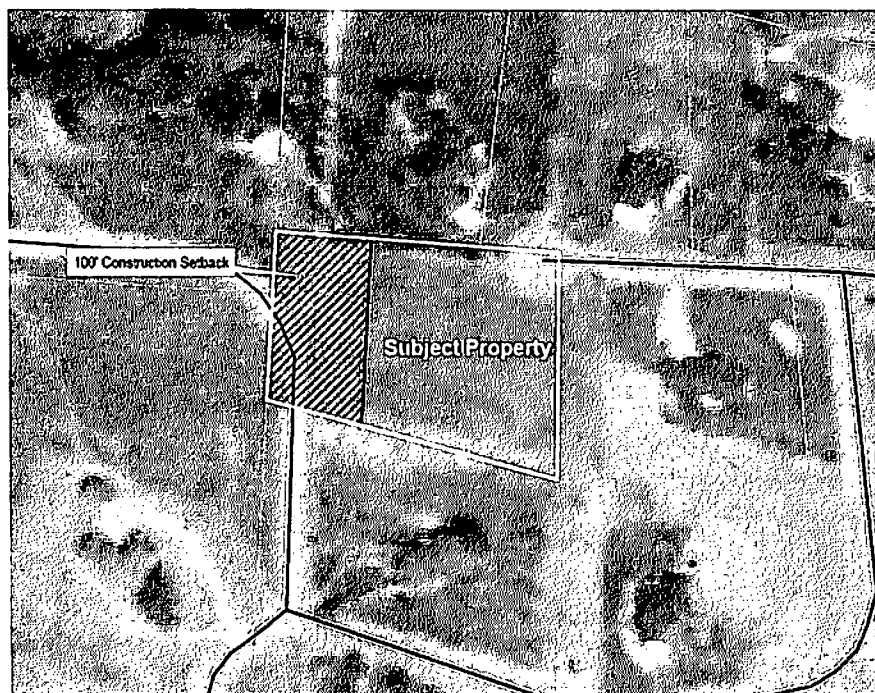
This is a request from Thomas Evans, to approve the **Harmony Hills, Lot 5A,  
Material Modification of a filed plat.**

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### II. BACKGROUND

Section 3-4-6(b) of the Ravalli County Subdivision Regulations (RCSR) allows modifications to filed subdivision plats. These "material modifications" are allowable only if the proposed modification does not constitute a subdivision and cannot be considered an error on the face of the plat.

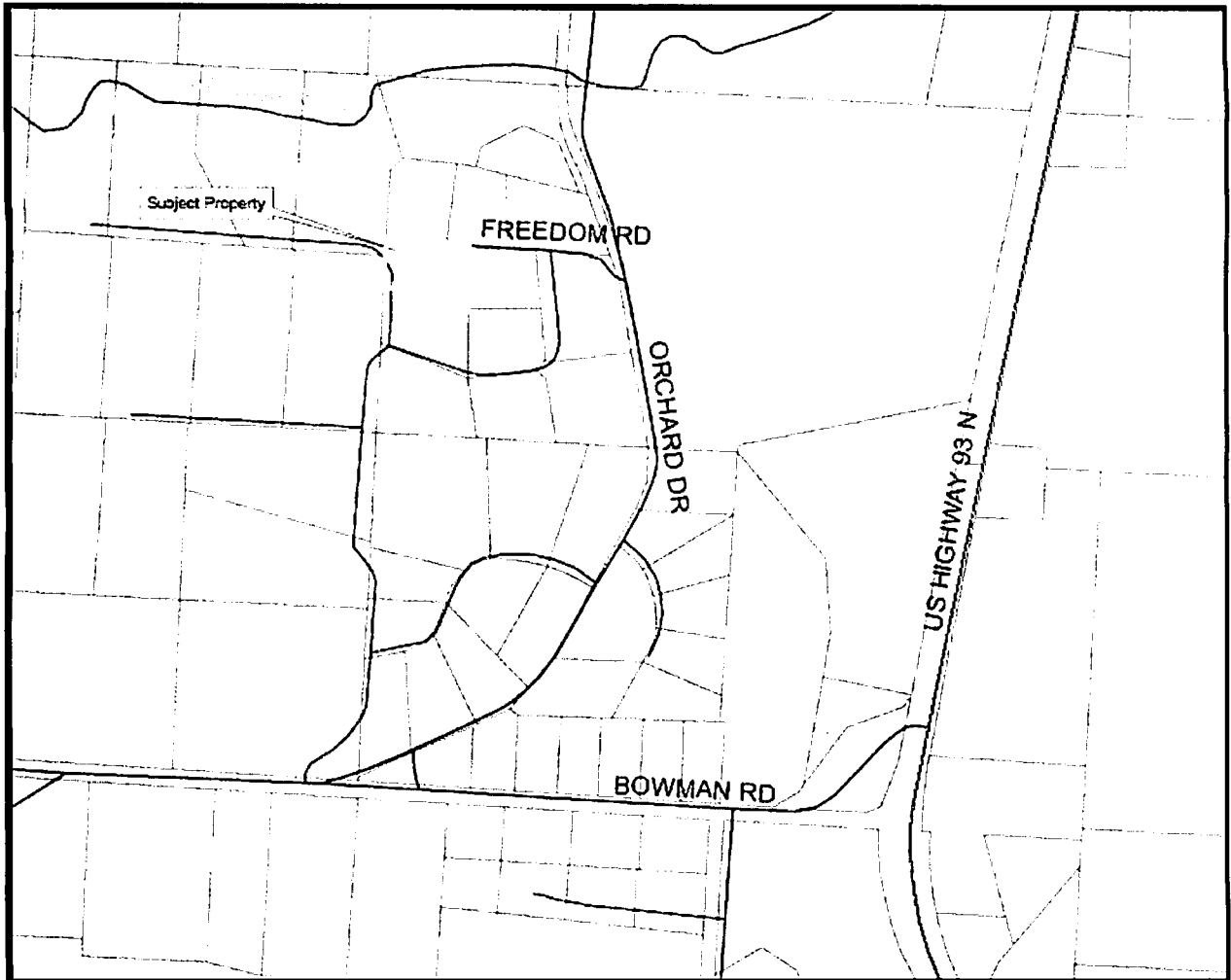
The material modification request is for Lot 5A of Harmony Hills, originally an eleven lot subdivision, which was given conditional approval in 1993. The subject property is located off Freedom Road, just north of the city of Hamilton, as shown on the location map below. As shown on the final plat (filed on May 17, 1993), a "100' Construction Setback" was placed on Lots 2A through 5A and Lot 9A. The applicant is proposing to entirely remove the "100' Construction Setback" from Lot 5A of the Harmony Hills Subdivision.



**Map 1: 100' Construction Setback**  
(Source Data: Ravalli County Planning Department)

Lot 5A is currently undeveloped and is vegetated with a mixture of grasses.

*Staff is recommending conditional approval of the material modification proposal.*



**Map 2: Location Map**  
(Source Data: Ravalli County Planning Department)

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### III. STAFF FINDINGS

Planning Staff makes the following findings in relation to this proposal:

1. The applicant is proposing to remove from the plat the current "100' Construction Setback" designation on Lot 5A. The proposed re-designation would allow for the construction of a single story house on the property. (Application)
  - a. The current "100' Construction Setback" begins at the west property line and runs 100 feet to the east. (Plat Approval # 2589)
2. The owners of record are David and Andrea Evans. (RC C&R)
3. The applicant, Thomas Evans, is acting on the owners behalf. (Application)

4. A consent to plat form signed by all parties with an interest in the property shall be filed with any material modification, as described in the Ravalli County Subdivision Regulations (RCSR). (RCSR Section 3-4-6(b))
5. The public hearing for the proposed material modification was properly noticed in accordance with Section 3-2-4 (Public Hearing – Notification Requirements) of the RCSR.
  - a. Notifications included the publication of a legal ad in the Ravalli Republic, written notice describing the proposal sent via certified mail to the applicant and all adjoining landowners, placement of a poster describing the proposal on the property, notifying the Planning Board of the proposal, and notifying affected agencies.
  - b. According to Section 3-2-4, property owners adjoining the subdivision are to receive a certified notification of the public hearing. This section further states that "The failure of any person required by this section to receive the notice shall not invalidate or otherwise have any effect upon a public hearing or action taken on the application".
  - c. All property owners within the Harmony Hills Subdivision were notified of the public hearing.
6. The proposed material modification is not considered an error on the face of the plat and does not constitute a subdivision. (Staff determination)
7. The Amended Restrictive Covenants for this property were filed on August 17, 1992. Covenant 3(b) states "All buildings, of any type or kind, shall be set back a minimum of thirty feet (30') from the property line of every lot and a minimum of thirty feet (30') from all roads." (Amended Restrictive Covenants, Book 199, Page 384)
8. The Planning Board conducted an informational meeting on January 13, 1993, and a public hearing on February 10, 1993, to consider the preliminary plat of Harmony Hills Subdivision. Citizens were given ample opportunity to express their opinions at that meeting. Adjacent landowners were concerned about:
  - a. The effects of the subdivision on groundwater quality
  - b. The effects of the subdivision on groundwater quantity
  - c. The aesthetics of the development
  - d. The roads and dust from the roads
9. At the February 10, 1993 public hearing, the Planning Board recommended that the subdivision be approved with the following conditions:
  - a. A reconfiguration from 11 lots to 5 lots be done

- b. A road maintenance agreement be adopted for perpetual maintenance of the road
  - c. The irrigation rights need to be addressed with some perpetual rights for maintenance and distribution of the water system
  - d. A need to address the legal access off Harmony Way onto Bowman Road
  - e. The road curve should be designed to meet the county standards
10. There was no reference to any conversation about a "100 foot construction setback" during the Planning Board review process.
11. The Staff Report from the Planning Office did not make any reference or findings related to a 100 foot construction setback.
12. Staff was unable to find any evidence of a discussion regarding a "100' Construction Setback" at the BCC hearing.
13. Harmony Hills Subdivision was granted conditional approval by the BCC on March 15, 1993.
14. The Preliminary Plat Decision (PPD) for the Harmony Hills Subdivision did not include any findings for or a requirement for a 100 foot construction setback.
15. Based upon all applicable public record, Staff is unable to find any evidence that would have required the placement of the construction setback on the original final plat, Platted Approval #2589.
16. The Planning Board recommended approval of the material modification at their December 5, 2007 meeting contingent on the Planning Department contacting Applebury Survey to see if they have any information on the reasoning for the "100' Construction Setback" that was placed on the plat.
17. Terry Nelson, of Applebury Survey, had no information to offer about the origin of the "100' Construction Setback".

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#### **IV. PLANNING STAFF'S RECOMMENDED MOTION**

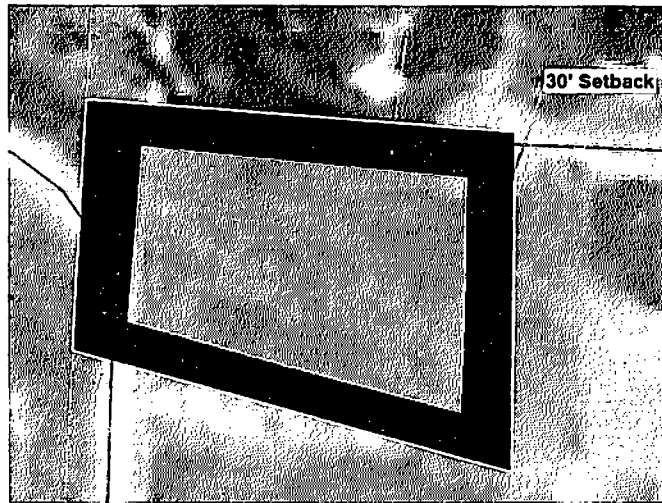
That the material modification for Harmony Hills Subdivision, Lot 5A, be conditionally approved.

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#### **V. PLANNING STAFF'S RECOMMENDED CONDITIONS**

*The following conditions are recommended to preserve as much as possible the intent of the original plat approval and existing covenants.*

1. An amended final plat shall be submitted to the Planning Department for filing in the Clerk and Records Office and shall show a 30 foot construction setback around the perimeter of all property boundaries of Lot 5A.



**Map 3: Condition 1**  
(Source Data: Ravalli County Planning Department)

2. The scope of the amended final plat shall show only Lot 5A and must conform to the uniform standards for filing final plats (ARM 8.94.3003).

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<b>REMAINING ISSUES:</b>	None known
<b>FISCAL IMPACT:</b>	No extraordinary fiscal impacts noted.
<b>ATTACHMENTS:</b>	Application package Agency Comments DRAFT Planning Board Minutes from 12/5/07
<b>STAFF:</b>	Randy Fifrick
<b>DATE:</b>	December 17, 2007

Commissioner Rokosch opened public comment.

Thomas stated in order to have a decent house on this lot the setback needs to be moved.

No further comment was received. Public comment was then closed.

Commissioner Rokosch asked if the setback is for all the lots. Randy replied the setbacks are on five lots. Thomas discussed the drainage area and the location of the setbacks. He stated he would like to build a house in the center of the lot.

Commissioner Thompson questioned the 100 foot setback. Randy replied the covenant calls for a 30 foot setback however the final plat has it at 100 feet.

**Commissioner Chilcott made a motion to approve Harmony Hills Lot 5A material modification based on the Planning Staff Report findings of fact and conditions. Commissioner Driscoll seconded the motion, all voted 'aye'.**

In other business, the Board met with the Investment Committee for an update and discuss Resolution No. 2015. Present were Internal Auditor Klarryse Murphy and Treasurer JoAnne Johnson.

JoAnne gave an overview of the STIP funds. She stated the Investment Committee voted to pull the STIP funds leaving a balance of \$1,000. Those STIP funds would then be placed into the highest rate money market and the funds would be available for withdrawal if needed. Klarryse explained how the interest rate had dropped as well as Orion Financials which is the location of the primary investment funds. JoAnne stated the funds are currently in First Interstate Bank drawing interest until they can decide which money market to deposit the funds into. JoAnne stated there are very strict stipulations of what they can invest in with the State.

Commissioner Chilcott stated the sooner these funds are deposited into a good money market account, the better. He expressed his concerns with any early withdrawal penalties. JoAnne replied they will not get charged with penalties on a money market account.

JoAnne stated some of the bonds are being called due to the federal government cutting interest rates.

Commissioner Rokosch inquired about Smith Barney money market accounts. Klarryse replied the interest rates for Smith Barney are fluctuating at the moment. She stated they cannot take the risk of an unstable rate.

Commissioner Chilcott asked how soon they can reinvest in Smith Barney and at what interest rate. Klarryse replied they can have it in there by 10 a.m. tomorrow.

**Commissioner Chilcott stated they should move \$20 million into Smith Barney. The Board concurred.**

Commissioner Rokosch questioned Resolution No. 2015 with the two mill levy. Klarryse stated there is a line item with \$38,000 for emergency fund. Commissioner Chilcott stated when the Resolution was adopted there was a need for engineering of the Kootenai Bridge. Klarryse stated they cannot do the mill levy this year. Her concern is who is going to do the work. The Road Department can only charge for material costs beyond Ravalli County resources. The Road Department has already received a bill for the Kootenai Creek Bridge in the amount of \$33,000. Commissioner Rokosch discussed State FEMA funds being used. Klarryse stated PILT can loan this money to the Road Department to pay for this bill. Commissioner Rokosch stated they should review the need to assess the two mills. Klarryse asked what the Board recommends. Commissioner Driscoll stated she believes some money needs to be left in the reserves.

Commissioner Rokosch asked about using the funds from PILT. Klarryse replied the reserve fund will cover this amount right now. Board discussion followed regarding where they will pull the funds from to cover the bill for the bridge.

Commissioner Rokosch stated they will need to spend what is in the existing fund plus two mills to order to obtain State funding. Commissioner Chilcott stated he does not believe they need to levy both mills. Klarryse stated Road Supervisor David Ohnstad needs to present an update of this Kootenai Creek Bridge project. It was the Board's consensus to utilize the existing funds for this bill prior to addressing any mill levy.

Minutes: Glenda Wiles

In a quick ministerial matter Skip Rosenthal discussed the Victor trip hazard that was caused by the previous CTEP project on Victor Main Street. He stated Contractor Earl Jones is building the overhang at the Hamilton House Restaurant (owned by Mr. Childers) and can do the railing at the same time. Discussion included the cost of this project and where to obtain the funding as well as the type of railing (metal or wood). Klarryse Murphy was still present and noted the money should be taken from the Commissioners General Unanticipated Cost line item. **Commissioner Chilcott made a motion to accept the bid from Earl Jones (K.C. Construction) in the amount of \$3,165.00, which includes the wood railing and overhang, with the consideration that Mr. Childers be responsible for any further maintenance of the wood railing and sign an agreement to that stipulation. Commissioner Thompson seconded the motion and all voted "aye".**

In other business the Board met for various administrative matters including the approval of the Hamilton Players Montana Cultural Grant. Present at this meeting was Vicki Bryson of the Hamilton Players. Vicki is the interim Executive Director for the Hamilton Players. This is an annual pass though grant in the amount of \$6,000. **Commissioner Chilcott made a motion to sign this grant agreement. Commissioner Driscoll seconded the motion and all voted "aye".**

Road Supervisor David Ohnstad met with the Board to discuss the approval of the Forest Service Agreement Modification #2 (for the existing agreement through August 2008 for the Kootenai Creek Road/Bridge monies) as specified under the authority and provisions of the Forest Development Road Cooperative Agreement executed between the County and Forest Service on May 26, 1965. There is approximately \$6,000 in funds left and by signing this agreement and the County could utilize those existing funds. **Commissioner Thompson made a motion to have this Modification #2 Agreement signed for the purposes of utilizing the monies available for the Kootenai Bridge project. Commissioner Driscoll seconded the motion and all voted "aye".**

Kierstin Lange met with the Board to discuss a grant from the National Endowment for the Arts in an amount up to \$22,000 for Rural Design in regard to planning workshops for the community. Kierstin presented a handout entitled "Your Town: the Citizens' Institute on Rural Design Request for Proposals, 2008" as attached. Kierstin stated there



are only four of these grants available in the nation. This grant, if obtained would include a facilitator for a workshop that is locally driven. The workshop would allow 35 participants the ability to work together for 2 ½ days along with planning specialists focusing on the highway corridor issues. The match is \$10,000 and can be in-kind or cash or a combination. Part of the grant monies can be utilized for follow up work after the workshop is held. The deadline for this grant application is January 7<sup>th</sup>. Both she and Kristine Komar of the Bitter Root Cultural Heritage Trust will work on this grant application as the sponsoring institution/organization for this grant will be the Bitter Root Cultural Heritage Trust. Heritage Trust is a non-profit organization and the fiduciary agent could be any non-profit organization or the county.

Kierstin noted the possibility of utilizing these grant funds as part of the Brainerd Foundation Grant requirements.

Commissioner Thompson stated he has no problem moving forward with this but expressed concern over the matching funds that are required as the county does not have any extra funds. He also expressed concern over the inability of the Planning Staff to have the time to devote to this, and noted the U of M has already put together a number of staff that are addressing some of the highway corridor issues within Ravalli County.

Kierstin stated she understands the inability of planning to directly participate in the administration of these workshops, but wants to make sure this project will assist the Planning Department in the highway corridor issues.

Commissioner Rokosch concurred with Commissioner Thompson's concern over the financial issues of match monies but does not want to depend upon the U of M Law Clinic to dictate anything to Ravalli County. Commissioner Thompson stated the 35 people would be local people and nothing would be dictated to Ravalli County.

Commissioner Chilcott asked what the desired outcome would be. Kierstin stated the outcome is to expedite and assist in the education of the local citizens who are going to be participating in the highway corridor issues that are affecting our county.

Commissioner Chilcott asked if this would create another focus group. Kristine Komar stated the grant is simply to educate the local citizens. Commissioner Chilcott stated his major concern is adding another layer of work for the Planning Department. He also noted this is a short turn around time to submit the grant. Kristine stated they could wait another grant cycle (one more year).

Planning Director Karen Hughes stated she liked the idea but does not have a clear understanding of what the workshop would entail and wonders if it would complement the intricate process or confuse it. She too would like to see some more details of the workshop.

Commissioner Driscoll expressed her concern about the short time frame to put this grant proposal together. She wants to make sure Karen Hughes is on board with this

application. It was agreed to continue this meeting to Friday, December 21<sup>st</sup> at 10:00 a.m. in the small third floor conference room.

In other business the Board met with Matt McKinney of PPRI in regard to county wide zoning. It was noted Matt had spent the previous hour with the Planning Board in regard to county wide zoning. Matt discussed the agenda for the countywide round table meeting during the evening hours tonight. The agenda included a CPC progress report, framework for the CPC review of draft regulations, ground rule revisions, feedback and role of the roundtable. Matt explained the makeup of the CPC's (from Lone Rock to Darby, the municipalities, various interest groups and public resource agencies, which include county departments and offices). This group make up allows for quick communication, input and recommendations that go to Clarion which is the Planning Consultant in this process. The information is then fed into the Planning Board and Planning Staff.

Matt also addressed the framework (addressed by 10 questions) for organizations of the countywide zoning. This framework allows feedback from the groups in regard to the draft regulations.

Commissioner Chilcott commented on the importance of keeping the public participation high and available to everyone.

Matt reviewed the project schedule summary for baseline zoning which began in November/December and will end in November 2008 when the Commissioners adopt the Resolution to Adopt the Zoning Regulations and Map.